

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Cover”) with the accompanying announcement: “Newsstands tomorrow @Drake @21savage Thanks to @voguemagazine and Anna Wintour for the love and support on this historic moment #HerLoss Nov 4th[.]”

3. Upon information and belief, the Twitter handles @Drake and @21savage belong, respectively, to Drake and 21 Savage. *See* Aubrey Drake Graham (@Drake), TWITTER, <https://twitter.com/Drake> (last visited November 7, 2022); Shéyaa Bin Abraham-Joseph (@21savage), TWITTER, <https://twitter.com/21savage> (last visited November 7, 2022). To obtain a “blue Verified badge” on Twitter, the account must be “authentic, notable, and active” – meaning it must “represent or otherwise be associated with a prominently recognized individual or brand.” *See* TWITTER, *How to get Verified on Twitter*, <https://help.twitter.com/en/managing-your-account/about-twitter-verified-accounts#requirements> (last visited November 7, 2022).

4. Attached as **Exhibit B** is a screenshot of a post from the official, verified Instagram accounts of Drake (@champagnepapi) and 21 Savage (@21savage), from October 31, 2022, available at <https://www.instagram.com/p/CkWsPPwu-qa/>. *See* Aubrey Drake Graham (@champagnepapi), INSTAGRAM, <http://instagram.com/champagnepapi> (last visited November 7, 2022); Shéyaa Bin Abraham-Joseph (@21savage), INSTAGRAM, <http://instagram.com/21savage> (last visited November 7, 2022).

5. As shown in the screenshot, both Drake and 21 Savage posted on October 31 an image of the Counterfeit Magazine, showing the Counterfeit Cover, with a nearly identical announcement to the October 30 tweet: “Me and my brother on newsstands tomorrow!! Thanks @voguemagazine and Anna Wintour for the love and support on this historic moment [. . .] Her Loss Nov 4th[.]” To obtain a “verified badge” on Instagram, the account must be: authentic, unique, complete, and notable, *i.e.*, it “must represent a well-known, highly searched for person,

brand or entity.” See INSTAGRAM, *What are the requirements to apply for a verified badge on Instagram?*, <https://help.instagram.com/854227311295302> (last visited November 7, 2022).

6. Members of the public, apparently under the mistaken belief that the Counterfeit Cover was an authentic *Vogue* cover, commented on the October 31 Instagram post. As several commenters noted, “Looking forward to picking this one up! @voguemagazine,” “FINALLY OMG!!! like bffr...A FASHION ICON,” and “Something is telling me this will be a classic.”

7. Attached as **Exhibit C** is a screenshot of a “tweet” from the Twitter user @jacquemusx, from October 31, 2022, available at <https://twitter.com/jacquemusx/status/1587105780397916161>. As shown in the screenshot, the Twitter user posted a photograph of blown-up print posters of the Counterfeit Cover that had been placed by Defendants and their representatives at various locations. The photograph is accompanied by the following text: “Saw 21 Savage and Drake’s upcoming Vogue cover today[.]”

8. Attached as **Exhibit D** is a screenshot of a “tweet” from the Drake Related Twitter account (@drakerelated), from October 30, 2022, available at <https://twitter.com/drakerelated/status/1586860852233195522>. The screenshot shows the Counterfeit Magazine juxtaposed with real issues of *Vogue* and other fashion magazines, in the apparent attempt to further enhance the Counterfeit Cover’s appearance of authenticity.

9. Attached as **Exhibit E** is a collection of screenshots from the Drake Related Twitter account (@drakerelated) captured on November 7, 2022, and showing various tweets from October 31, 2022.¹ As shown in the screenshots, the Drake-affiliated account notified the public

¹ The tweets are available at the following URLs:
<https://twitter.com/drakerelated/status/1587184111755485184>,
<https://twitter.com/drakerelated/status/1587213582365708288>,
<https://twitter.com/drakerelated/status/1587213607267274752>,

of various locations at which the Counterfeit Magazine would be distributed in New York, Los Angeles, Atlanta, Miami, Houston and Toronto (among other locations).

10. Attached as **Exhibit F** is a screenshot of a “tweet” from the Twitter user @5thave_native, from November 1, 2022, available at https://twitter.com/5thave_native/status/1587525896059195396?cxt=HHwWiMC8pYaZg4gsAA. As shown in the screenshot, the Twitter user posted a photograph touting the procurement of a copy of the Counterfeit Magazine in New York City, with the accompanying text: “Perks of livin in NYC exclusive drake x 21 vogue mag[.]” As shown in the exhibit, the comments to the original tweet indicate that the user purchased the Counterfeit Magazine for \$7 on 71st Street in Forest Hills, Queens, New York.

11. Attached as **Exhibit G** is a collection of press articles from various sources erroneously reporting on the Counterfeit Cover, each of which was published on or about October 31, 2022. The press articles, which are excerpted below, demonstrate the widespread confusion that resulted from Defendants’ deceptive social media post, and overall misleading promotional campaign by which Defendants capitalized on the substantial goodwill and value associated with the VOGUE trademark and brand to promote and drive up sales of their recently released album *Her Loss*.

- **Yahoo News**² posted a *Revolt* article titled *Drake and 21 Savage land on the cover of 'Vogue'*, erroneously reporting: “**This Friday (Nov. 4), Drake and 21 Savage will unveil their joint album, *Her Loss*, to the masses. Before that takes place,**

<https://twitter.com/drakerelated/status/1587213691371474944>,
<https://twitter.com/drakerelated/status/1587213707574026240>, and
<https://twitter.com/drakerelated/status/1587225474580844545>.

² See Jon Powell, *Drake and 21 Savage land on the cover of 'Vogue'*, yahoo.com (October 31, 2022) <https://www.yahoo.com/video/drake-21-savage-land-cover-121225115.html>;

the chart-topping duo revealed that they've landed on the cover of *Vogue*'s latest issue."

- **All Hip Hop**³ posted an article titled *Drake & 21 Savage Land Vogue Cover Ahead Of Collab Album 'Her Loss'*, erroneously reporting: **"While Drake and 21 Savage delayed the release of their upcoming surprise album *Her Loss* earlier this week, the rollout continues with the two rappers appearing on the cover of iconic fashion bible *Vogue*."**
- **HipHopDX**⁴ posted an article titled *DRAKE & 21 SAVAGE COVER 'VOGUE' MAGAZINE AHEAD OF 'HER LOSS' ALBUM*, erroneously reporting: **"Drake and 21 Savage have covered the latest issue of *Vogue* alongside one another as their *Her Loss* joint project is set to arrive later this week. The fashion magazine cover hit stands on Monday (October 31) featuring the pair of rappers draped in black threads with 21 keeping his face covered with his hand."**
- **View the Vibe**⁵ posted an article titled *Drake and 21 Savage are Vogue's new cover stars*, erroneously reporting: **"Drake and 21 Savage's new album *Her Loss* is not the only thing that's coming out this week. The rapper posted that the duo is *Vogue*'s October cover star. ... This special edition of *Vogue*'s October issue will be available at various locations across New York City. ... Having the rappers on the cover of *Vogue* is definitely different for *Vogue*."**
- **HotNewHipHop**⁶ posted an article titled *Drake & 21 Savage Make History On The Cover Of "Vogue"*, erroneously reporting: **"While they've since confirmed that we'll be hearing the highly anticipated album this coming Friday (November 4), in the meantime, Drizzy [i.e. Drake] has shared the exciting news that he and the Saint Laurent Don will be the ones to grace the cover of the latest issue of *Vogue*, landing on newsstands today (October 31). ... The accompanying cover story has yet to be released, but when it is, you can rest assured it will be loaded with all kinds of juicy information about the prolific rhymers and their work – both past, present, and future."**

³ See London Jennn, *Drake & 21 Savage Land Vogue Cover Ahead Of Collab Album 'Her Loss'*, allhiphop.com (October 31, 2022), <https://allhiphop.com/news/drake-21-savage-land-vogue-cover/>.

⁴ See Michael Saponara, *Drake & 21 Savage Cover 'Vogue' Magazine Ahead of 'Her Loss' Album*, hiphopdx.com (October 31, 2022), <https://hiphopdx.com/news/drake-21-savage-her-loss-vogue>.

⁵ See Mursal Rahman, *Drake and 21 Savage are Vogue's new cover stars*, viewthevibe.com (October 31, 2022) <https://viewthevibe.com/drake-and-21-savage-are-vogues-new-cover-stars/>.

⁶ See Haley Hynes, *Drake & 21 Savage Make History On The Cover Of "Vogue"*, hotnewhiphop.com (October 31, 2022) <https://www.hotnewhiphop.com/445575-drake-21-savage-make-history-on-the-cover-of-vogue>.

12. Attached as **Exhibit H** is a printout from the Wikipedia page “List of *Vogue* (US) cover models,” from November 3, 2022, originally available at, [https://en.wikipedia.org/wiki/List_of_Vogue_\(US\)_cover_models#2022](https://en.wikipedia.org/wiki/List_of_Vogue_(US)_cover_models#2022). As shown by the printout, the Wikipedia article was modified to list Drake and 21 Savage as the December 2022 *Vogue* cover models.

13. Attached as **Exhibit I** is a collection of printouts from the music community forum ktt2.com, reflecting a conversation thread originally entitled, “*Drake and 21 Savage on the cover of Vogue | Giveaway locations in TOR, LA, NYC, ATL MIA revealed,*” which was captured on November 1, 2022.⁷ As shown by the printouts, several users on the forum, apparently believing that the Counterfeit Cover was genuine, commented as follows between October 30 and November 1, 2022:

- “It’s real. Also magazines can have multiple covers”⁸
- “Excited to read what they say about the project”⁹
- “Which other male rappers have covered vogue ? Maybe that’s the historic angle. Or just how rare it is”¹⁰
- “just wait until they talk about the album in the magazine tomorrow and they reflect on features”¹¹
- “[I]sn’t this like the second time US Vogue has had only men and no woman on the cover? that’s huge”¹²

⁷ For the Court’s convenience, the user comments have been highlighted and enlarged.

⁸ See Ex. I at 2 (@MrPJP).

⁹ See *id.* at 3 (@bluejeans).

¹⁰ See *id.* (@SinceKumbaya).

¹¹ See *id.* at 8 (@levii).

¹² See *id.* (@Clementine).

- “This project gonna be special. You not covering Vogue for some thrown together tape BS. (One can hope anyway)”¹³

14. Attached as **Exhibit J** is a collection of screenshots of tweets from various Twitter users from October 30 and 31, 2022, espousing in various manners the belief that the Counterfeit Cover was genuine. As several users wrote:

- “you think it’s gonna sell out before i can get to it tomorrow afternoon?”¹⁴
- “@21savage & @Drake on the cover of Vogue is a bigger deal than what you all think it is. First and foremost, models and influencers who you usually see on vogue (ex. Kardashians) don’t usually get that American cover.”¹⁵
- “Don’t tell me that you model if you ain’t been in vogue. A huge historic moment for Papi @champagnepapi and @21savage gracing the cover of Vogue Magazine! Her Loss November 4th, 2022”¹⁶

15. Attached as **Exhibit K** is a collection of screenshots from the Instagram accounts of Drake and 21 Savage, from November 4, 2022, the day on which the album *Her Loss* was released. As shown in the screenshot, both Drake and 21 Savage featured the Counterfeit Cover in their Instagram “stories.” Unlike Instagram posts, which live permanently on an account page, “stories” allow users to temporarily share content, and at the end of 24 hours, will automatically disappear. See [about.instagram.com, *Introducing Instagram Stories*](https://about.instagram.com/blog/announcements/introducing-instagram-stories#:~:text=Today%2C%20we're%20introducing%20Instagram,a%20slideshow%20format%3A%20your%20story), INSTAGRAM (Aug. 2, 2016) <https://about.instagram.com/blog/announcements/introducing-instagram-stories#:~:text=Today%2C%20we're%20introducing%20Instagram,a%20slideshow%20format%3A%20your%20story> (last visited November 7, 2022). The screenshots demonstrate Defendants’

¹³ See *id.* at 9 (@OVOLeBron).

¹⁴ Available at the URL: <https://twitter.com/ShottaSV/status/1587241452286902273>.

¹⁵ Available at the URL: https://twitter.com/_itz_jordany_/status/1586872719819390978.

¹⁶ Available at the URL: <https://twitter.com/beewellhoni/status/1587105101918912514>.

continuing infringement mere days after Condé Nast, through counsel, demanded that Defendants removed the offending posts.

I declare under penalties of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 7, 2022



Wook Hwang

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